IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 11342 of 2005

Between:

Smt. Yousuf Bi W/o. Late Moulana Saheb
R/o.Palpanur Village Hathnoora Mandal
Medak District.

..... PETITIONER

AND

1 The District Collector
Medak District Sangareddy District.
2 Mandal Revenue Officer
Hathnoora Mandal Medak Dist.
3 Gram Panchayat rep. by its Secretary
Palpanoor Hathnoora Mandal
Medak Dist.

.....RESPONDENTS

ORDER:

When the W.P.M.P. came up for hearing, both the parties consented for disposal of the writ petition itself and accordingly, the writ petition is taken up for hearing and is being disposed of by this order.

2. The petitioner is wife of Moulana Saheb. Her husband was assigned 5 guntas of land in the year 1977 vide file No.35/7406/76, February, 1977. A thatched house was put up in an extent of 2 ½ guntas and the rest of the land remained vacant. When the Sarpanch of the Grampanchayat-3rd respondent tried to interfere with the possession and enjoyment of the writ petitioner in respect of the land, she filed the suit O.S.No.9 of 2003 on the file of Junior Civil Judge, Narsapur and obtained ad-interim injunction in I.A.No.34 of 2003 on 06.08.2003. The third respondent unsuccessfully carried the matter in appeal being C.M.A.No.10 of 2003, on the file of the III Additional District and Sessions Judge, (Fast Tract Court) at Medak. The Mandal Revenue Officer-second respondent issued notice on 18-02-2005 proposing resumption of 2 ½ guntas out of 5 guntas of land on the ground that the land assigned was misused for residential purpose instead of agriculture. The petitioner submitted an explanation on 21.02.2005. The second respondent issued proceedings No.13/197/2005, dated 06.05.2005 ordering resumption of 2 ½ guntas of land. Assailing the said proceedings issued by the Mandal Revenue Officer, the petitioner filed this Writ Petition invoking the jurisdiction of this Court under Article 226 of the Constitution of India.

3. Third respondent filed counter affidavit. It is stated in the counter affidavit that the petitioner consented to deliver possession of 2 ½ guntas for public purpose, I deem it appropriate to refer relevant portion of the counter affidavit, which reads thus:

> *"The land was resumed with the consent of the petitioner to the extent of 2 ½ guntas while leaving an extent of 2 ½ guntas in*

which a thatched house was constructed in which the petitioner is said to have been residing. Thus, there is no conflict of interest of the petitioner and there is no loss created to the existing house of the petitioner and an extent of 2 ½ guntas is allowed by the revenue officials since there is a residential house existing and the rest of the land is required for the public purpose for laying the road and drainage in the village site, which is essentially a public purpose for which the petitioner agreed and consent and possession was taken by the Revenue department on 16.05.2005 under panchanama. The Mandal Revenue Officer also passed similar order of resumption for having violated the terms and conditions of the assignment only to the extent of 2 ½ guntas while the other 2 ½ guntas is left to the petitioner since there is a thatched house belonging to the petitioner. Therefore, in the circumstances petitioner has been ill advised to file a writ petition and no relief can be granted under Article 226 of the Constitution of India when there is a consent of the writ petitioner herself to surrender the land which is admitted in para 6 of the writ affidavit. The petitioner obtained interim orders from this Court in W.P.M.P.No.14529 of 2005 in W.P.No.11342 of 2005 by suppressing the real facts and mislead this Court at the time of passing interim orders. Thus, there are absolutely no merits in the writ petition and the same is liable to be dismissed."

4. Heard learned counsel for the petitioner and learned Government Pleader for Revenue appearing for the respondents 1 and 2 and learned standing counsel appearing on behalf of the third respondent.

5. Learned counsel for the third respondent submits that the writ petitioner himself admitted in the writ affidavit that she expressed her willingness to surrender the land to the extent of 2 ½ guntas out of 5 guntas and therefore, the petitioner cannot have any grievance against the proceedings issued by the Mandal Revenue Officer resuming 2 ½ guntas of land. The learned counsel appearing for the petitioner submitted across the bar that the petitioner has no objection if the Mandal Revenue Officer resumed the land leaving the thatched house and compound wall to an

extent of 2 ½ guntas. In such a situation, the petitioner cannot any grievance with regard to the proceedings impugned in this writ petition resuming only open site admeasuring 2 ½ guntas. The impugned proceedings in the writ petition are in no way affect the structures and compound wall covering 2 ½ guntas and what is resumed under the impugned proceedings is only vacant land admeasuring 2 ½ guntas out of 5 guntas.

6. With the above observation, the writ petition is disposed of. No order as to costs.

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10-08-2005

Note: issue cc in two days

B/o kvrm